

REMARKS

The Examiner has:

- I. Rejected Claims 1-5 under 35 U.S.C. §102(b) as being anticipated by Alvarado et al.

I. The Claims Are Not Anticipated

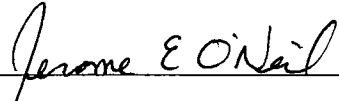
The Office Action rejects Claims 1-5 under 35 U.S.C. §102(b) as allegedly anticipated by Alvarado et al. We disagree. Applicants again emphasize that while the pending application has a priority date of provisional application number 60/414,061 filed September 27, 2002; the earliest available date stamp for the Alvarado reference is January 24, 2002. Importantly, the front page of the Alvarado reference provided along with the Non-Final Office Action mailed July 3, 2007 clearly shows that this reference represents the “Collected Papers” of the “Sixth International Symposium” in “York, England”. The rejection provided in the Final Office Action mailed January 16, 2008 simply re-applies the reference cited in the previous Office Action; that is, the present rejection is also based on the Sixth International Symposium, in York England (“Collect Papers, Int. Symp., 6th, York, UK, Aug.31-Sept. 4, 1999).

The Examiner is reminded that there must be public dissemination in order for a reference to be prior art. See *In re Tenney*, 254 F.2d 619, 117 USPQ 348 (CCPA 1958) (concurring opinion by *J. Rich*) (“Knowledge is not in the possession *of the public* where there has been no dissemination, as distinguished from technical accessibility...” The real significance of the word “printed” is grounded in the *probability* of wide circulation.”). Applicants, therefore, respectfully contend that the reference relied upon in the present Office Action cannot support a 35 U.S.C. §102(b) rejection since there has been no further indication of its availability prior to September 27, 2001.

CONCLUSION

Based on the arguments provided above, Applicants believe that Claims 1-5 are in condition for allowance. Should the Examiner believe a telephone interview would aid in the prosecution of this application, the Applicants encourage the Examiner to call the undersigned at 518-426-1600.

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Jerome E. O'Neil, J.D., Ph.D.
Registration No. 58,799

Medlen & Carroll, LLP
41 State Street, Suite 503
Albany, NY 12207
518.426.1600